

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1141 OF 2016

Shri. Pandurang Shrirang Thorat ...Petitioner

Versus

Shri. Madhukar Shrirang Thorat & Ors. ...Respondents

.....
Mr. Sharad T. Bhosale for the Petitioner.

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**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 28, 2017**

P.C. :

1. Not on board. Upon mentioning, taken on board.
2. Rule. Rule made returnable forthwith. The petition is heard finally and disposed off at the stage of admission.
3. This Petition is directed against the order dated 13.10.2015 passed by the Civil Judge Junior Division, Madha, District-Solapur by which the learned trial Judge has set aside the exparte order and No Written Statement order passed against Defendant nos. 1 and 2.
4. The petitioner, who is original plaintiff had filed Suit No. 470 of 2012 for simplicitor injunction. Respondent nos. 1 and 2 i.e. original defendant nos. 1 and 2 had filed the application below

Exhibit 29 for setting aside No W.S order passed against them by the learned trial Court in Regular Civil Suit No. 470 of 2012.

5. The learned counsel for the petitioner submits that the respondents appearing in the said Suit. They have also engaged an Advocate, but they did not file Written Statement for a long time. Therefore, the trial Court has rightly passed No W. S. order and therefore, to proceed exparte. The plaintiff has filed affidavit-in-lieu-of examination-in-chief. The Court has settled the issue. There was considerable delay in filing the written statement and the application for setting aside No Written Statement order. There was no sufficient cause in the application.

6. Perused the impugned order passed by the learned trial Judge and the reasons given in the application. The trial Court has taken a view that the defendants had appeared and filed their written statement alongwith their application requesting to set aside the order of No Written Statement. It shows that the written statement was ready and filed. The learned trial Judge has rightly observed that the party should be given an opportunity to defend the Suit. There is no need to disturb the order passed by the learned trial Judge.

7. In view thereof, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)